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NSW Government / Fair Trading

### **Security of Payment Reforms (SOP)**

Dear Sir or Madam,

Currently Security of Payments are not standardised across every state. Currently the SOPA enables the Head Contract (Builder) to get paid within 15 business days but leaves the Subcontractors (Us) to be paid within 30 business days. There is no standardisation across every state? The Builder and Subcontractor should get paid within 14 days. Below is the current recommendation:

*Schedule 1 Amendment of Building and Construction Industry Security of Payment Act 1999 No 46 Schedule 1 [3] ensures that a person who has undertaken to carry out construction work, or supply related goods or services, under a construction contract is generally entitled to a progress payment on a monthly basis (or more frequently, if the contract so provides). Schedule 1 [3] also specifies when the person is entitled to a progress payment in the case of a single or one-off payment, a milestone payment or the termination of the contract. Schedule 1 [1] and [2] make consequential amendments. Schedule 1 [4] and [5] ensure that a progress payment is generally due and payable no later than: (a) 10 (instead of 15) business days after a head contractor makes a payment claim for the payment, or (b) 20 (instead of 30) business days after a subcontractor makes a payment claim for the payment. See attached link: <https://www.fairtrading.nsw.gov.au/about-fair-trading/have-your-say/security-of-payment-reforms>*

This is a massive oversight and does not help the subcontractors in any way when negotiating contracts; can we find out who went in to negotiate on the Subcontractors behalf?

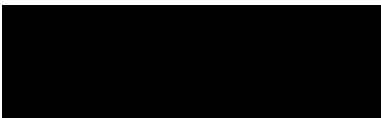
The trust accounts are very complex, time consuming and big issue for all our members and other contractors, is getting paid on time. We realise that they are not directly linked to "trust Accounts", but these affect us as Sub-contractors;

1. Payment terms should be legislated at 14 days for high labour content contracts, as a fall back, 50% of our claim paid mid-month. The builders will argue their payment terms are 30+ days, but they have literally millions of \$\$ in their bank accounts, we should ask the government to ask the builders of their bank balance. And we need to remind the Government, that if they don't pay their suppliers on time, supply is cut off.....specially Concrete. And now with the "single touch payroll" (STP) PAYG Tax remittance being within 7 days ? of us paying wages, we will have a worse cash flow position.
  - When a builder is *'going bad'*, he pays Suppliers first, and Subcontractors a way long second; we should take priority, and the only way that will occur, is via legislation
  
2. Retentions should be released by law, 12 months after we finish works, not when they finish, or on some Federal Infrastructure jobs, 24 months!!
  
3. That the minimum retention that can be held by a builder is \$2K, so the contract must be a minimum value of \$40K. The time we take
  
4. That retentions should be held by the Rental Bond Authority, say within 7 days of the Contract Value Agreement being signed (unless Bank Guarantees are used), and any interest is paid to the Subcontractors.

Note: what happens when a Subcontractors goes broke? If the builder goes broke, then it is released automatically.

My personal belief is that dishonest and unscrupulous builders will still get around this.

Sincerely,



Brendan Coyle

President | Masonry Contractors Australia.



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